

Claim Rejections –35 USC, Second Paragraph

Claims 1 and 3-9 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In response, claim 1 has been amended to make it clear that an object-related identifier is affixed to the object and to specify that the object-related identifier comprises a unique set of characters. As amended, it is believed that the amended claims fully comply with the requirements of 35 USC 112, second paragraph, for particularly pointing out and distinctly claiming the subject matter regarded as the invention

Claim Rejections – 35 USC §102

The subject invention is useful in automated biochemical analyzers that are controlled and operated by a modern computer. Such computers typically identify and track a large number of discrete items like solution containers and carriers, sample tubes, tube racks, test devices, replaceable pumps, sensors and the like. Conventionally, an operator manually enters information into the computer's operating system to identify what type of items is being placed on the analyzer. This invention eliminates this operator involvement, thereby decreasing operational time and error potential, by adding special symbols in a barcode on the item to identify the type of device. These special symbols, characters selected from the group consisting of %, 0, &, *, (,), {, [,], !, :, and >, are claimed in such a manner as to enable the computer to automatically direct the information obtained from the indicia to the appropriate location within the operating system.

Claims 1-3 and 9 are rejected under 35 USC §102(b) as being anticipated by Knudsen et al. (WO 85/02257).

The standards for an anticipation rejection are high and have been consistently maintained. Anticipation under Section 102 can only be found if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985) In addition, for a prior art reference to anticipate, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831,

15 U.S.P.Q. 2d 1566 (Fed. Cir. 1990). To substantial a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E. I. DuPont*, 750 F.2d 1569 (Fed. Cir. 1984). The prior art reference also must show the *identical* invention "*in as complete detail as contained in the . . . claim*" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989). Accordingly, applicant need only point to a single element not found in the cited reference to demonstrate that the reference fails to anticipate the claimed subject matter.

As explained below, compared to these standards, the Examiner has failed to make a *prima facie* case of anticipation to support a rejection under U.S.C. §102(b) because Knudsen et al. fail to disclose or suggest each and every limitation of the claimed, special object-related identifiers for facilitating the entry of object identifying information into an analyzer's computer operating system. In particular, the group consisting of %, 0, &, *, (, }, {, [,], !, :, and > are not found in Knudsen et al. Consequently, it is applicants' position that the present invention is patentable over Knudsen et al.

Knudsen et al. disclose an analyzer equipped to read indicia attached to one of a number of different sensors in order to identify each of the sensors, calibration data and/or serial numbers (Page 16, lines 16-33) Specifically, when a sensing device is inserted into the analyzer, a code sensor reads the indicia and signals the analyzer "which particular chemical species of interest being sensed by each sensor". In addition, operating information about each sensor may be contained in the indicia (Page 21, lines 9-12) and calibration data may be used to determine analyte concentrations (Page 24, lines 16-29).

Nowhere in Knudsen can there be found any direct or inferred reference to the analyzer's operating control system (essentially a programmed computer) using an object-related identifier attached to a device to automatically determine where the data relative to the device are to be stored within the operating control system. As claimed, the present invention automatically enters data relative to an object into a clinical analyzer's operating control system based on object-related identifiers within the group consisting of %, 0, &, *, (, }, {, [,], !, :, and >. This key limitation is not disclosed by Knudsen; thus it cannot be said that Knudsen et al. discloses or anticipates each and every feature of the claimed invention which is the required basis for a 102(b) rejection. For this reason, with respect to Knudsen et al.,

claims 1-3 and 9 are believed to satisfy the requirements for novelty under 35 USC §102(b) and Applicant respectfully requests removal of this rejection.

Claims 1, 4 and 7 are said to lack novelty under 35 USC §102(b) as being anticipated by Weyrauch (US Patent 5,357,095). For the same reasons as explained above, the Examiner has failed to make a *prima facie* case of anticipation to support a rejection under U.S.C. §102(b); consequently, it is applicants' position that the present invention is patentable over Weyrauch et al.

Weyrauch discloses a chemistry instrument equipped to read indicia attached to the bottom of a reagent bottle in order to identify bottle size, and reagent identification data to the chemistry instrument as needed for monitoring reagent inventory and life (Col. 8, lines 6-14) Detailed information describing the data encoding scheme and its interpretation are at Col. 10, line 25 to Col.12, line 6.

Since Weyrauch's analyzer is limited to identifying identify bottle size, and reagent identification data and is silent as to storing the data, it cannot be said that Weyrauch discloses or anticipates each and every feature of the claimed invention in which device data are automatically entered into a clinical analyzer's operating control system by reading an indicia that defines where the data are to be stored. As claimed, the present invention automatically enters data relative to an object into a clinical analyzer's operating control system based on object-related identifiers within the group consisting of %, 0, &, *, (,), {, [,], !, :, and >. This key limitation is not disclosed by Weyrauch; thus it cannot be said that Knudsen et al. discloses or anticipates each and every feature of the claimed invention which is the required basis for a 102(b) rejection. For this reason, with respect to Weyrauch, claims 1-2, 4 and 7 are believed to satisfy the requirements for novelty under 35 USC §102(b) and Applicant respectfully requests removal of this rejection.

Claims 1, 3 and 5-8 are said to lack novelty under 35 USC §102(b) as being anticipated by Buhler et al. (US Patent 5,700,429). As explained below, the Examiner has failed to make a *prima facie* case of anticipation to support a rejection under U.S.C. §102(b);

consequently, it is applicants' position that the present invention is patentable over Buhler et al.

Buhler et al. disclose a vessel holder with multiple chambers the inside each bearing a first bar code label for detecting the absence of a vessel in the chamber, and the outside of each chamber bears a second bar code label for detecting the position of the chamber in the vessel holder. The first and the second bar code labels are readable by a bar code reader from one and the same side of the vessel holder. The purpose is to increase the number of vessels which can be received in the analyzer and to simplify the device for reading bar code label. The details of reading the bar codes may be found at Col. 4, lines 35-56.

Since Buhler et al. is limited to simply reading bar codes to determine presence and location of a vessel within a holder, Buhler et al. do not teach the features of claims 1-3 and 5-8. As claimed, the present invention automatically enters data relative to an object into a clinical analyzer's operating control system based on object-related identifiers within the group consisting of %, 0, &, *, (,), {, [,], !, :, and >. This key limitation is not disclosed by Buhler et al. Thus, it cannot be said that Buhler et al. discloses or anticipates each and every feature of the claimed invention in which device data are automatically entered into a clinical analyzer's operating control system by reading an indicia that defines where the data are to be stored. For this reason, with respect to Buhler et al., claims 1-3 and 5-8 satisfy the requirements for novelty under 35 USC §102(b) and Applicant respectfully requests removal of this rejection.

Applicant believes that this application contains patentable subject matter and that the foregoing remarks provide a basis for allowance of all claims; such allowance is respectfully requested.

Respectfully submitted,



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